

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Smalley, et al.
Serial No.: 10/033,028
Filed: December 28, 2001
Group Art Unit: 1754
Examiner: Stuart L. Hendrickson
Title: COMPOSITION AND ARTICLES OF MANUFACTURE

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER MPEP 711.03(c)(I)(A)**

Sir:

Applicant hereby submits this Petition to Withdraw Holding of Abandonment of this application. This application became abandoned on July 11, 2005 for failure to respond to the Official Action issued on January 11, 2005. Such Office Action was not received in this office, nor has the Notice of Abandonment been received.

On August 5, 2005, Examiner Hendrickson called the undersigned, Ross Spencer Garsson, the attorney for this application to determine if the abandonment of this application was intentional. Mr. Garsson accessed the docket system to review the status of this application and advised Mr. Hendrickson that no Office Action had been received and that the last action on the

docket for this matter was the filing of a Response to the May 28, 2005 First Office Action concurrently with a Petition for Two-Month Extension of Time to Response on October 28, 2004. Mr. Garsson then accessed the PAIR system and printed a copy of the January 11, 2005 Office Action and forwarded it to the assignee's exclusive licensee for review. Attached as Exhibit A is a copy of this correspondence to the representative of assignee's exclusive licensee.

Attached as Exhibit B is a true and correct copy of Applicants' docket sheet dated August 8, 2005 showing where an Office Action and the Notice of Abandonment would have been docketed had one been received. As reflected therein, Applicant's docket sheet shows no such receipt of an Office Action or Notice of Abandonment for the application. This docket sheet reflects that our Docket Coordinator docketed a Petition to Revive on this matter for October 1, 2005.

Attached as Exhibit C is a copy of Pages 25 and 72 from our Monthly Docket Report that was run from our docket system on July 1, 2005. Page 72 includes the criteria under which this report was run, which was for all Action Items that had not been completed through October 31, 2005. The bottom left corner of Page 72 includes the date on which this docket was saved to our computer system, which was July 1, 2005. If the Office Action had been received, it would have appeared on Page 25 of this report, under the due date of July 11, 2005. Note that we have redacted client confidential information from this sheet.

Applicant hereby states that the Office Action was never received at either the correspondence address specified on the January 11, 2005 Office Action, Hugh R. Kress, Winstead Sechrest & Minick P.C., 22400 Bank One Center, 910 Travis Street, Houston, Texas 77002 or at the current address of record, Winstead Sechrest & Minick P.C., P.O. Box 50784,

Dallas, Texas 75201.¹ Applicant further states that both of these are, and were, valid and acceptable mailing address for the U.S. Postal Service at the time the Office Action was issued by the U.S. Patent and Trademark Office.

The Attorney of Record also states that a complete and thorough search was made of the files and the Attorney's offices in order to determine if an office letter had been received. No such communication was found nor was a docket record found indicating that the communication had been received.

For the foregoing reasons, Applicants respectfully request that this Petition be accepted, the application be revived and that the Office issue a new Office Action in this application. If the examiner has any questions regarding this Petition or any other matter, the examiner is requested to contact the undersigned attorney for Applicant.

It is believed that no fees are due for this Petition. However, if any fees are due, the Director is hereby authorized to debit all fees due to the Deposit Account of Winstead Sechrest & Minick P.C., Deposit Account No. 23-2426.

Respectfully submitted,

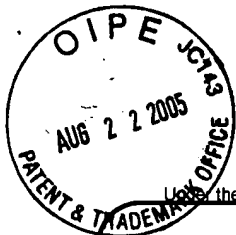
Date: August 19, 2005

By: 

Ross Spencer Garsson, Reg. No. 38,150

WINSTEAD SECHREST & MINICK P.C.
P.O. Box 50784
Dallas, Texas 75201
Phone: 512.370.2870
Fax: 214.745.5390

¹ A Change of Correspondence Address was filed on October 15, 2004 with the U.S. Patent Office. Nonetheless, the Office Action was directed to the earlier address.



PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number 10/033,028

Filing Date December 28, 2001

First Named Inventor Richard E. Smalley

Art Unit 1754

Examiner Name Stuart L. Hendrickson

Attorney Docket Number 11321-P012USD13

ENCLOSURES (Check all that apply)

- | | | |
|---|--|---|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to TC |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input checked="" type="checkbox"/> Amendment/Reply | <input checked="" type="checkbox"/> Petition to Withdraw Holding of Abandonment w/Exh. A-D | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final Attached as Exh. D to Petition | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | Postal Receipt Card |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application | <input type="checkbox"/> Landscape Table on CD | |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | | |

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Winstead Sechrest & Minick P.C.		
Signature			
Printed name	Ross Spencer Garsson		
Date	August , 2005	Reg. No.	38,150

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Beatrice Zepeda	Date	August 19, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Ange, Viola

From: Zepeda, Beatrice
Sent: Friday, August 05, 2005 12:09 PM
To: 'Cross, Virginia'
Cc: Garsson, Ross; Ange, Viola
Subject: 11321-P012USD13 Office Action

Attached is an office action for the above-referenced docket. Ross will contact you shortly regarding same.

Best regards,

Beatrice Zepeda
IP Legal Secretary to Ross Spencer Garsson
Winstead
401 Congress Avenue, Suite #2100
Austin, Texas 78701
Direct: (512) 370-2913
Fax: (512) 370-2850
www.winstead.com

-----Original Message-----

From: eCopy ShareScan
Sent: Friday, August 05, 2005 12:07 PM
To: Zepeda, Beatrice
Subject: Scanned document from eCopy ShareScan



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change-08052005...

WINSTEAD Patent: 11321/P012USD13, United States, Regular, National, Division

Patent Data

Docket Number	11321/P012USD13	Attorney	Ross Spencer Garsson
Country	United States	Attorney 2	
Case Type	Regular	Attorney 3	
Relation Type	Division	Agent	
Filing Type	National	Agent Ref No	
Filing Number		Client/Division	Rice University (William Marsh)
Status	Filed	Owner/Proprietor	William Marsh Rice University
Sub Status	Published	Previous Owner	
Sub Status Date	8/1/2002	Client Reference1	10099
First Filing Date	3/7/1997	Client Reference2	10099
Parent Country	United States	CPA Reference	
Parent Number	PCT/US98/04513	Ind. Claims\Designs	21
Parent Filing Date	3/6/1998	Total Claims	33
Parent Grant Date		TotalClasses	
Application Number	10/033028	ConfirmationNumber	1029
Application Date	12/28/2001	Deed Date	4/16/2003
Publication Number	02-0102196	Recordal Date	5/9/2003
Publication Date	8/1/2002	Reel/Frame	014047/0013
Patent Number		Effective Date	5/9/2003
Grant Date		File Location	Houston
Tax Base Date		Historic Date	
Next Tax Date		Assigned	Assignment Recorded
Expiration Date		Convention Type	

Title

Composition and Articles of Manufacture

Description

Other Case-Related Information

Actions

Action	Action Due Date	Deadline Date	Completed Date	Action Notes	Responsible Atty #2	Responsible Atty #3
Application Mailed	12/28/2001		12/28/2001	PC rec'd 1/14/02		
Nic File Corrected Appln - Mail Date	2/19/2002		2/25/2002			
Info Discl. Statement	3/28/2002		4/16/2002	PC dated 4/19/02, rec'd 4/30/02		
Additional Document Due	3/28/2002		2/19/2002	Filing Receipt		
Received	3/28/2002		3/28/2002	Updated Filing Receipt		
Corrected Appln Papers Filed	4/19/2002		3/12/2002	& Amendment filed; PC dated 3/21/02, rec'd 3/27/02		
Supplemental Information Discl	1/6/2003		1/6/2003	PC dated 01/13/03		
Power of Attorney	5/8/2003		5/8/2003	PC dated 5/12/03, rec'd 5/20/03		
Assignment	10/15/2003		10/15/2003	Assign from R.E. Smalley, D. Colbert, H. Dai, J. Liu, J. Hafner, K.Smith, T. Guo, P.		

Nikolaev, and A. Thess to WMRU recorded
on 5/9/2003

Restriction mail date	2/12/2004	2/12/2004	
Restriction Response Due	3/12/2004	3/11/2004	PC dated 3/15/04 rec'd 3/23/04
1st Office Action Response	5/28/2004	5/28/2004	
	7/15/2004	7/15/2004	Notification of Loss of Small Entity Status; PC dated 7/19/04 rec'd 7/26/04
Response to 1st office action	8/28/2004	8/28/2004	Not filed
Supplemental Information Discl	9/15/2004	9/15/2004	PC dated 9/21/04; rec'd 9/27/04
STATUTORY Review/Action Due	10/15/2004	2/12/2004	
Supplemental Information Discl	10/25/2004	10/25/2004	PC dated 10/28/04 rec'd 11/1/04
Response first OA - second extension	10/28/2004	10/15/2004	PC dated 10/18/04 rec'd 10/25/04
Final rejection due	10/1/2005		Final OA dated 1/11/05 never rec'd by WSM
Petition to Revive Due	10/1/2005		

Inventors

Assignment Date Inventor

Smalley, Richard E.
Colbert, Daniel T.
Dai, Hongjie
Liu, Jie
Rinzler, Andrew G.
Hafner, Jason H.
Smith Kent W.
Guo, Ting
Nikolaev, Pavel
Thess, Andreas

CreateUser: SC

CreateDate: 1/8/2002

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UpdateUser: IP_SC

UpdateDate: 8/8/2005

Friday, July 01, 2005

PATENT RESPONSIBLE ATTORNEY DOCKET REPORT
WITHOUT CASE INFORMATION
Ross Spencer Garsson

<i>ActionDueDate</i>	<i>ActionDescription</i>	<i>DocketNumber</i>	<i>CountryName</i>	<i>ApplicationNumber</i>	<i>PatentNumber</i>	<i>CurrentOwnerName</i>
7/10/2005	Review foreign - 6 month reminder	40228/P021V1	United States	1/10/2005		
	<i>Title</i>					
	<i>Notes</i>					
7/10/2005	Review USA - 6 month reminder	40228/P021V1	United States	1/10/2005		
	<i>Title</i>					
	<i>Notes</i>					
7/10/2005	Review foreign - 6 month reminder	40228/P021V2	United States	2/23/2005		
	<i>Title</i>					
	<i>Notes</i>					
7/10/2005	Review USA - 6 month reminder	40228/P021V2	United States	2/23/2005		
	<i>Title</i>					
	<i>Notes</i>					
7/11/2005	Notice Of Missing Parts	11321/P055WOUS	United States	7/25/2003		
	<i>Title</i>					
	<i>Notes</i>					
7/12/2005	Response	11321/P002WOCA	Canada	9/6/1996		
	<i>Title</i>					
	<i>Notes</i>					

6/23/05-Reminder LFA

Patent Responsible Attorney

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Friday, July 01, 2005

PATENT RESPONSIBLE ATTORNEY DOCKET REPORT
WITHOUT CASE INFORMATION

Ross Spencer Garsson

ActionDueDate	DocketNumber	ApplicationNumber	PatentNumber	CurrentOwnerName
ActionDescription	CountryName	ApplicationDate	GrantDate	ClientName

Report Criteria ([ActionDueDate] <= {d'2005-10-31'}) AND ([CompletedDate] Is Null) AND ([TakenDate] Is Null) AND ([AttorneyName] In ('Ross Spencer Garsson'))

Order by AttorneyName and ActionDueDate then DocketNumber

Record Count 426